



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/153,577	09/15/1998	DANIEL J. ZIGMOND	3382-50875/S	5732

26119 7590 01/27/2005

KLARQUIST SPARKMAN LLP  
121 S.W. SALMON STREET  
SUITE 1600  
PORTLAND, OR 97204

EXAMINER

PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
----------	--------------

2182

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/153,577

Applicant(s)

ZIGMOND ET AL.

Examiner

Tammara R Peyton

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) ☒ Claim(s) 6,7,11-13,15, 16, 21,22,24-26,28, 30-35,38-41,43-55,57-59,61-69, 71-73, and 75-101 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 6,7,11-13,15,16,21,22,24-26,28,30-35,38-41,43-55,57-59,61-69,71-73 and 75-101 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

20050121

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 11-13, 15, 16, 25, 26, 28, 30-35, 38-40, 45-51, 58, 61-64, 65-69, 71-73, 75, 78-81, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 6,335,736), as previously cited in paper 24 (PTO-892 - 05/24/02) and Schein et al., (US 6,002,394).

As per claims 6, 15, 16, 28, 30, 35, 45, 46, 49, 62, 66, 71, 72, 78, 81, and 85, Wagner teaches a method of operating a screen to transition between display of a televised signal and display of auxiliary data from an auxiliary data network that delivers data apart from the television signal, comprising:

- displaying a television signal; (30, Fig. 6)
- in response to link data conveyed with the televised signal, displaying with the displayed television signal an icon, said icon indicating the availability of associated auxiliary data from the auxiliary data network; (41, Fig. 6, 7, col. 6, lines 44-col. 7, lines 1-6)

Art Unit: 2182

- responsive to a signal from a viewer during the displaying the icon, displaying a graphical control panel operable by the viewer to cause display of the auxiliary data associated with the icon. (Abstract, col. 48, col. 2, lines 1-30 and col. 3, lines 8-col. 6)

As previously argued in Office Action 04/22/2004 Examiner believes that Wagner clearly states that when window, 40 and icon 41, are displayed when interactive content is detected by the box, 2, and in response to a signal from the user during the displaying of the window, 40 and icon, 41 an information panel, 45 will be displayed. Examiner believes that the browser panel, 31 shown in Fig. 3 is different from the information panel shown in Fig. 7, because the browser panel, 31 allows the user to access interactive content without notifying the user of the available of the interactive content during for example a commercial, wherein, the information panel, 45 is displayed when the user is notified of the interactive content when watching a commercial and a signal is received from the user that indicate an interest regarding the shown icon. Once the signal is received from the user during the display of the icon, 41, the information panel, 45 is displayed that is operable by the user to cause is display of the interaction content (available web sites) related to the icon, 41 via two buttons (GET. INFO, PREV INFO) that are shown in the information panel, 45. Examiner believes that the information panel is first shown and then the user chooses to cause the display of the interactive content by selecting between the two buttons. In other words, Wagner does not teach going directly from displaying the icon, 41 and receiving a signal from

Art Unit: 2182

the user that would directly display a web page upon receiving the signal associated with the icon. However, Wagner is silent in respect to having an information panel that is responsive to a signal from the user to end the information panel and return to watching the television program.

Schein teaches a system and method for linking television user/viewer with broadcasters or advertisers during the broadcast of a commercial or television program. Schein teaches during a specific commercial or television program, for example a sporting program, one or more icons are displayed on the television screen for the user to click on. The icon could represent activating the television guide or the icon could represent a commercial sponsor related to the real-time broadcast. (Schein, col. 20, lines 29-57)

Schein teaches in one embodiment that during the television program an icon will appear on the television screen and in order for the user to access information related to the newly displayed icon the user must click on the icon to activate the television guide display panel. (col. 20, 29-45) Example of the television guide display panel is shown in Figs. 16-21. The television guide display panel provides the user with several options to choose from. For example, one of the options is to exit the television guide display panel and return to watching the television or commercial program. Another option is to activate another program guide that displays related channels and further an

Art Unit: 2182

option to service links including accessing the Internet or to a special database linked to the program. (col. 21-25)

Examiner is taking the position that Schein teaches an embodiment that during the television program an icon will appear on the television screen and the user must click on the icon to activate the television guide display panel. One of the options on the television guide display panel is to exit the television guide display panel and return to viewing the television program.

Wagner and Schein draw to the same conclusion of displaying information associated with the current televised content, therefore, it would have been obvious to one of ordinary skill at the time the invention was made to implement Schein's television guide display panel options to Wagner thereby allowing a user to return to viewing the televised content after clicking an 'icon' displayed during a television or commercial program and activating a television guide display panel wherein one of a plurality of options includes exiting the display panel and returning to television program. Doing so would improve the look and feel of Wagner's information panel by providing a two-step process that allows the user to exit the information panel.

As per claims 7 and 67, Wagner teaches displaying said icon for a predetermined period, and thereafter removing the displayed icon from the screen (pg. 5, lines 8-10)

As per claim 11, 12, 33, 34, and 61, Wagner teaches of receiving and showing an icon at a predetermined time as it relates to a specific program or channel, it is obvious that after the specific program has ended that the particular icon related to the show is removed from the screen.

As per claim 13, 79, Wagner teaches displaying in the graphic control panel a title of the auxiliary data (get info) associated with the icon. Schein obviously teaches display the title of the auxiliary data associated with the icon.

As per claim 14, 38, and 80, Wagner teaches that responsive to a second signal from the viewer during the displaying of the graphical control panel display the auxiliary data.

As per claims 25, 26, 47, 48, 62, and 69, Wagner-Schein discloses receiving the auxiliary data and television signal and seeing if they can be identified by the system's memory and recalling at least part of the memory for displaying to the screen. Further both Wagner-Schein discloses displaying at least part of the log and retrieving and displaying the additional information.

As per claims 31, 32, 39, 50, 63, and 68, Wagner-Schein inherently teaches that the icon is translucent in order to not inhibit viewer's program during the broadcast.

As per claims 40, 51, 58, 64, 73, and 75, Wagner teaches having a progress indicator indicating progress of retrieval of the auxiliary data. (Figs. 8a-8d)

Claims 21, 22, 24, 41, 43, 44, 52-55, 57, 59, 65, 76, 77, 82-84, 86-101, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 6,335,736), as previously cited in paper 24 (PTO-892 - 05/24/02) and Schein et al., (US 6,002,394) as applied to claims 6, 7, 11-16, 25, 26, 28, 30-35, 38-40, 45-51, 58, 61-64, 65-69, 71-73, 75, 78-81, and 85 above, and further in view of Hidary et al., as previously cited as IDS – 05/24/02.

As per claim 21, 22, 24, 41, 43, 44, 52-55, 57, 59, 65, 76, 77, 82-84, and 86-101, Wagner-Schein teaches of displaying the icon for a limited amount of time and if the user does not respond disabling the icon from the screen. However, Wagner-Schein does not expressly teach that in response to subsequent link data, skipping displaying the icon at least in part upon result of comparing the subsequent link data to at least some previous link data. However, it would have been obvious to one of ordinary skill that Wagner-Schein would have been motivated to limit the number of times an icon is shown during a particular broadcast if the user did not respond the first time. Furthermore, Schein teaches wherein the television guide display panel provides the



Art Unit: 2182

user with several options to choose from. One of the options includes adding the selected programs to a favorites list. Schein also gives the user the ability to store certain link data in a memory.

Nonetheless, Hidary teaches a PC/TV computer system method that embeds URLs with incoming television signals wherein the user is able to watch a television program and related URLs are display to the user at appropriate times on the screen. (col. 5, lines 41-45) Hidary specifically teaches comparing at least some previously received URLs (link data) to currently received URLs (link data) and subsequent URLs. (Fig.3) If the current link data was previously received Hidary teaches skipping this previously received URL. (Hidary, col. 1, lines 61 – col. 6, lines 1-57) Further Hidary teaches comprising logs of previously received URLs and in response to the user selection, retrieving and displaying the additional information from the URLs list. (Hidary, col. 5, lines 46-59)

One of ordinary skill in the art at the time the invention was made would readily recognize that Wagner-Schein would have been motivated to implement Hidary's teachings of making a record of the previously received link data and skipping currently received link data to be display to the user at appropriate times if it was determined that the link data was previously received because implementing such a method would ensure that the user's television broadcast would not be unduly interrupt.

Art Unit: 2182

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(703) 872-9306

Hand-delivered responses should be brought to:

USTPO, 2011 South Clark Place, Customer Window

Crystal Plaza Two, Lobby Room 1B03, Arlington, VA, 22202Crystal Park II, 2121.

A handwritten signature in black ink, appearing to read 'Tammara Peyton', is written over a horizontal line.

Tammara Peyton

January 21, 2005